

**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR**

00-500-1

**THIS AGREEMENT** is by and between Town of Essex, Connecticut.

(hereinafter called OWNER) and Xenelis Construction Co., Inc.

(hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**ARTICLE 1 - WORK**

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Civic Campus Enhancement, Essex, Connecticut

**ARTICLE 2 - ENGINEER**

2.01 The Project has been designed by

Lenard Engineering, Inc. (LEI), 2210 Main Street, P.O. Box 1088, Glastonbury, CT 06033-6088,  
Phone (860) 659-3100, Fax (860) 659-3103,

who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 3 - CONTRACT TIMES**

3.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 *Days to Achieve Substantial Completion and Final Payment*

- A. The Work will be substantially completed within 120 days after the date when the Contract Times commence to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within ..... days after the date when the Contract Times commence to run.

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**3.03    *Milestones***

- A. None.

**3.04    *Liquidated Damages***

- A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$200 for each day that expires after the time specified in paragraph 3.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$200 for each day that expires after the time specified in paragraph 3.02 for completion and readiness for final payment until the Work is completed and ready for final payment.
- B. **CONTRACTOR AND OWNER**, mutually agree that this Liquidated Damages provision only relates to delays in performance and does not relate to damages in the event of termination or other non-performance.

**ARTICLE 4 - CONTRACT PRICE**

4.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 4.01.A below:

- A. Summation of Extended Totals per attached Schedule of Values:

<u>Two hundred and seventy-seven thousand, two hundred and sixty-one dollars &amp; fifty cents</u>	<u>\$277,261.50</u>
(use words)	(figure)

All specific cash allowances are included in the above price and have been computed in accordance with paragraph 11.02 of the General Conditions.

**ARTICLE 5 - PAYMENT PROCEDURES**

**5.01    *Submittal and Processing of Payments***

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A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

**5.02      *Progress Payments; Retainage***

A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in paragraphs 5.02.A.1 and 5.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:
  - a. 95% of Work completed (with the balance being retainage).
2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less 100% of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

**5.03      *Final Payment***

A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

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**ARTICLE 6 - INTEREST**

6.01 All monies not paid when due as provided in Article 14 of the General Conditions shall not earn interest.

**ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS**

7.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work and performance of the Work, including but not limited to STEAP Grant requirements of the State of Connecticut for the Civic Campus Enhancement project, and will perform the Work in accordance with the foregoing requirements.

D. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

E. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

F. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.

G. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents,

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and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

H. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## **ARTICLE 8 - CONTRACT DOCUMENTS**

### **8.01        *Contents***

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 8, inclusive);
2. Performance Bond (pages 1 to 2, inclusive);
3. Payment Bond (pages 1 to 2, inclusive);
4. Other Bonds (pages 1 to 2, inclusive);
  - a. Bid Bond-Penal Sum Form (pages 1 to 2, inclusive);
5. General Conditions (pages 1 to 41, inclusive);
6. Supplementary Conditions
7. Specifications as listed in the table of contents of the Project Manual;
8. Drawings as listed in the table of contents of the project manual
9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
  - a. Written Amendments;
  - b. Work Change Directives;

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c. Change Order(s).

B. The documents listed in paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 8.

D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.05 of the General Conditions.

**ARTICLE 9 - MISCELLANEOUS**

9.01 *Terms*

A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

9.02 *Assignment of Contract*

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 *Severability*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

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IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on September 19, 2013 (which is the Effective Date of the Agreement).

OWNER:

Town of Essex, Connecticut

By: Norman M. Needleman, First Selectman

[CORPORATE SEAL]

Attest Frances D. Nolin

Address for giving notices:

Town of Essex, Town Hall

29 West Avenue

Essex, CT 06426

(If OWNER is a corporation, attach evidence of authority to sign. If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of OWNER-CONTRACTOR Agreement.)

Designated Representative:

Name: Steve

CONTRACTOR:

Xenelis Construction Co., Inc.

By: Nicholas C. Xenelis

[CORPORATE SEAL]

Attest

Address for giving notices:

Middlefield Industrial Park

30 Old Indian Trail

Middlefield, CT 06455

License No. \_\_\_\_\_  
(Where applicable)

Agent for service of process: \_\_\_\_\_

(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign.)

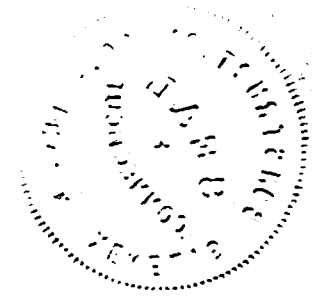
Designated Representative:

Name: Nicholas C. Xenelis

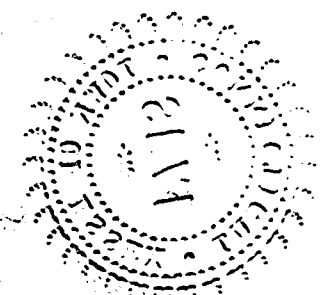
UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20540

MEMORANDUM FOR THE SECRETARY



TO: SECRETARY  
FROM: [illegible]  
SUBJECT: [illegible]



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2. [illegible]  
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100. [illegible]

Very truly yours,  
[illegible signature]  
[illegible name]  
[illegible title]



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BETWEEN OWNER AND CONTRACTOR**

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Title: First Selectman

Title: President and Secretary

Address: Town of Essex

Address: Middlefield Industrial Park

29 West Avenue, Essex, CT 06426

30 Old Indian Trail, Middlefield, CT 06455

Phone: 860-767-4340 x 112

Phone: 860-349-1313

Facsimile: 860-767-8509

Facsimile: 860-349-1636

END OF SECTION

PERFORMANCE BOND

00-610-1

CONTRACTOR (Name and Address):

Xenelis Construction Company, Inc.  
30 Old Indian Trail, Middlefield, CT 06455

OWNER (Name and Address): Town of Essex, Connecticut  
29 West Avenue  
Essex, CT 06426

SURETY (Name and Address of Principal Place of Business):

Capitol Indemnity Corporation  
115 Glastonbury Boulevard, Suite 5, Glastonbury, CT 06033

CONTRACT

Date: 9-19-13

Amount: Two Hundred Seventy Seven Thousand Two Hundred Sixty One and 50/100 Dollars (\$277,261.50)

Description (Name and Location): Civic Campus Enhancement  
Grove Street  
Essex, Connecticut

BOND

Bond Number: 60073016

Date (Not earlier than Contract Date):

Amount: Two Hundred Seventy Seven Thousand Two Hundred Sixty One and 50/100 Dollars (\$277,261.50)

Modifications to this Bond Form: none

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Company: Xenelis Construction Company, Inc.

Signature: [Signature] (Seal)

Name and Title: Nicholas Xenelis President

(Space is provided below for signatures of additional parties, if required.)

SURETY

Capitol Indemnity Corporation

(Seal)

Surety's Name and Corporate Seal

By:

Signature and Title T. Deffley  
T. Deffley, Attorney In Fact  
(Attach Power of Attorney)

Attest:

Signature and Title Wendy Krystof  
Wendy Krystof, Account Manager

CONTRACTOR AS PRINCIPAL

Company:

Signature: \_\_\_\_\_ (Seal)

Name and Title:

SURETY

Surety's Name and Corporate Seal

By:

Signature and Title  
(Attach Power of Attorney)

Attest:

Signature and Title:

## PERFORMANCE BOND

00-610-2

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.
2. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.
3. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
  - 3.1. Owner has notified Contractor and Surety, at the addresses described in Paragraph 10 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
  - 3.2. Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 3.1; and
  - 3.3. Owner has agreed to pay the Balance of the Contract Price to:
    1. Surety in accordance with the terms of the Contract;
    2. Another contractor selected pursuant to Paragraph 4.3 to perform the Contract.
4. When Owner has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:
  - 4.1. Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
  - 4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
  - 4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and Contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
  - 4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
    2. Deny liability in whole or in part and notify Owner citing reasons therefor.
5. If Surety does not proceed as provided in Paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 4.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
6. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To a limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:
  - 6.1. The responsibilities of Contractor for correction of defective Work and completion of the Contract;
  - 6.2. Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions or failure to act of Surety under Paragraph 4; and
  - 6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.
7. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.
8. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
  - 12.1. Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
  - 12.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 12.3. Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
  - 12.4. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

## PAYMENT BOND

00-615-1

CONTRACTOR (Name and Address):  
Xenelis Construction Company, Inc.  
30 Old Indian Trail, Middlefield, CT 06455  
OWNER (Name and Address): Town of Essex  
29 West Street  
Essex, CT 06426

SURETY (Name and Address of Principal Place of Business):  
Capitol Indemnity Corporation  
115 Glastonbury Boulevard, Suite 5, Glastonbury, CT 06033

### CONTRACT

Date: 9-19-13  
Amount: Two Hundred Seventy Seven Thousand Two Hundred Sixty One and 50/100 Dollars (\$277,261.50)  
Description (Name and Location): Civic Campus Enhancement  
Grove Street  
Essex, Connecticut

### BOND

Bond Number: 60073016  
Date (Not earlier than Contract Date):  
Amount: Two Hundred Seventy Seven Thousand Two Hundred Sixty One and 50/100 Dollars (\$277,261.50)  
Modifications to this Bond Form: none

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

#### CONTRACTOR AS PRINCIPAL

Company: Xenelis Construction Company, Inc.

Signature: [Signature] (Seal)  
Name and Title: Nicholas Xenelis  
President

(Space is provided below for signatures of additional parties, if required.)

#### CONTRACTOR AS PRINCIPAL

Company:

Signature: \_\_\_\_\_ (Seal)  
Name and Title: \_\_\_\_\_

#### SURETY

Capitol Indemnity Corporation (Seal)  
Surety's Name and Corporate Seal

By: T. Deffley  
Signature and Title T. Deffley, Attorney In Fact  
(Attach Power of Attorney)

Attest: Wendy Krystopa  
Signature and Title Wendy Krystopa, Account Manager

#### SURETY

\_\_\_\_\_  
Surety's Name and Corporate Seal (Seal)

By: \_\_\_\_\_  
Signature and Title  
(Attach Power of Attorney)

Attest: \_\_\_\_\_  
Signature and Title:

## PAYMENT BOND

00-615-2

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
  - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
  - 4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2. Claimants who do not have a direct contract with Contractor:
    1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
    2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
    3. Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
  - 6.1. Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
  - 6.2. Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. DEFINITIONS
  - 15.1. Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasolins, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished. ...
  - 15.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 15.3. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.



CAPITOL INDEMNITY CORPORATION  
POWER OF ATTORNEY

60073016

KNOW ALL MEN BY THESE PRESENTS, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

-----T. DEFFLEY; S.E. SUSANIN-----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

-----ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$20,000,000.00-----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 15th day of May, 2002.

"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 2nd day of May, 2011.

Attest:

*Richard W. Allen III*

Richard W. Allen III  
President  
Surety & Fidelity Operations



CAPITOL INDEMNITY CORPORATION

*David F. Pauly*

David F. Pauly  
CEO & President

STATE OF WISCONSIN } S.S.:  
COUNTY OF DANE

On the 2nd day of May, 2011 before me personally came David F. Pauly, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Dane, State of Wisconsin; that he is President of **CAPITOL INDEMNITY CORPORATION**, the corporation described herein and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



CERTIFICATE

*Daniel W. Krueger*

Daniel W. Krueger  
Notary Public, Dane Co., WI  
My Commission Is Permanent

STATE OF WISCONSIN } S.S.:  
COUNTY OF DANE

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



*Alan S. Ogilvie*

Alan S. Ogilvie  
Secretary

THIS DOCUMENT IS NOT VALID UNLESS PRINTED ON GRAY SHADED BACKGROUND WITH A RED SERIAL NUMBER IN THE UPPER RIGHT HAND CORNER. IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT CALL 800-475-4450.



**Essex Civic Campus Enhancement Project**

**Schedule of Values**

**East Side of Grove**

	Quantity	Unit	Unit Price	Amount
1 Mobilization	1	LS	22,260.00	22,260.00
2 Install Erosion & Sedimentation Protection at Drainage Structures	4	Ea	85.00	340.00
3 Install Silt Fence Erosion & Sedimentation Protection	150	LF	3.00	450.00
5 Saw-Cut Bituminous Pavement	580	LF	2.00	1,160.00
8 Cut Concrete Pavement	10	LF	5.00	50.00
9 Remove Existing Concrete Sidewalk	40	SY	6.00	240.00
11 Remove Existing Signs/Store/Reinstall	5	Ea	300.00	1,500.00
12 Remove Existing Drainage Structures	2	Ea	1,400.00	2,800.00
13 Remove Existing Catch Basin Tops	2	Ea	300.00	600.00
14 Remove Pavement Markings	500	LF	0.50	250.00
15 Install Type C-L Catch Basin	1	Ea	3,000.00	3,000.00
16 Adjust Type C-L Catch Basin Top to Grade	2	Ea	600.00	1,200.00
17 Install Manhole Frame & Cover to Grade over San Gallery	2	Ea	600.00	1,200.00
18 6" HDPE Storm Drain in Trench	70	LF	40.00	2,800.00
19 15" HDPE Storm Drain in Trench	25	LF	60.00	1,500.00
20 3" PVC Electric Conduit in Trench	510	LF	16.00	8,160.00
21 Earth Excavation	590	CY	12.00	7,080.00
24 Extruded Concrete Curbing	1650	LF	9.00	14,850.00
27 Concrete Sidewalk	2400	SF	9.00	21,600.00
28 Epoxy Resin Pavement Markings 4" Wide White	3500	LF	0.45	1,575.00
29 Epoxy Resin Pavement Markings 10" Wide White	25	LF	3.50	87.50
30 Traffipatterns XD Crosswalk	1170	SF	15.50	18,135.00
31 Install Bollard Light Pole	5	Ea	1,900.00	9,500.00
32 Install Shoebox Type Pole Light	1	Ea	2,000.00	2,000.00
33 Black Gum	3	Ea	800.00	2,400.00
34 Stellar Pink Dogwood	1	Ea	600.00	600.00
35 Japanese Tree Lilac	2	Ea	600.00	1,200.00
36 Goldfinch Magnolia	3	Ea	650.00	1,950.00
37 Hetz Columnar Juniper	9	Ea	325.00	2,925.00
38 Oakleaf Hydrangea	6	Ea	100.00	600.00
39 Koreanspice Viburnum	3	Ea	50.00	150.00



# Essex Civic Campus Enhancement Project

## Schedule of Values

40 Slender Deutzia	17	Ea	50.00	850.00
41 Bush Cinquefoil	17	Ea	50.00	850.00
42 Coreopsis	29	Ea	25.00	725.00
43 Daylily	22	Ea	25.00	550.00
44 Coral Bells	15	Ea	25.00	375.00
45 Black Eye Susan	18	Ea	25.00	450.00
46 Lamb's Ear	19	Ea	25.00	475.00
47 Cabaret Maiden Grass	12	Ea	40.00	480.00
48 Little Bunny Grass	12	Ea	30.00	360.00
49 Astibe	20	Ea	25.00	500.00
50 Russian Sage	10	Ea	25.00	250.00
51 Furnishing and placing Topsoil	1000	SY	5.00	5,000.00
52 Turf Establishment	1000	SY	2.00	2,000.00
53 Maintenance & Protection of Traffic/Flagmen	1	LS	4,500.00	4,500.00
54 Construction Staking	1	LS	5,000.00	5,000.00
55 Protection & Support of Utilities	1	Est	500.00	500.00
56 Install New Traffic Signs	4	Ea	350.00	1,400.00
57 Install HC Parking signs	4	Ea	400.00	1,600.00
58 Remove Existing Chain Link Fence - Save	10	LF	25.00	250.00
59 Remove Existing Backboard - Save	1	Ea	150.00	150.00
60 Remove Court Accessories	1	LS	150.00	150.00
61 Install Underdrain System	695	LF	25.00	17,375.00
62 Pervious Structure Backfill	1100	CY	22.00	24,200.00
63 Install Practice Board	1	LS	1,500.00	1,500.00
<b>Finish Tennis Court Items</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Amount</b>
1 Mobilization	1	LS	1,000.00	1,000.00
2 Install Net Posts	4	Ea	800.00	3,200.00
3 Install Net Anchors	2	Ea	600.00	1,200.00
4 Bituminous Pavement Class 1	110	Ton	120.00	13,200.00
5 Bituminous Pavement Class 2	110	Ton	120.00	13,200.00
6 Restore Chain Link Fence at Construction Entrance	10	LF	10.00	100.00
7 Install HC Accessable Pedestrian Gate	1	Ea	500.00	500.00
8 Acrilic Color Coating System	12400	SF	1.25	15,500.00

**Essex Civic Campus Enhancement Project**

**Schedule of Values**

**Playscape Items**

	Quantity	Unit	Unit Price	Amount
1 Mobilization	1	LS	1,600.00	1,600.00
3 Earth Excavation	415	CY	15.00	6,225.00
4 Precast Concrete Curbing	402	LF	22.00	8,844.00
5 Install 3" Diameter Perforated HDPE Pipe Underdrain System	200	LF	23.00	4,600.00
6 Install 4" Deep 3/4" Compacted Crushed Stone Drainage Layer	92	CY	70.00	6,440.00
<b>Total</b>				<b>277,261.50</b>



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/12/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> The Roberts Agency, Inc. 31 Tunxis Avenue P O Box 805 Bloomfield CT 06002-0805		<b>CONTACT NAME:</b> Nancy Dagata <b>PHONE (A/C No. Ext):</b> (860) 242-7726 <b>FAX (A/C No.):</b> (860) 242-5505 <b>E-MAIL ADDRESS:</b> dagatan@robertsins.com	
<b>INSURED</b> Xenelis Construction Co., Inc.  30 Old Indian Trail Middlefield CT 06455		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Acadia Insurance Company <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	
		<b>NAIC #</b> 31325	

**COVERAGES****CERTIFICATE NUMBER:** CL126400823**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	CPA0382112-10	6/1/2012	6/1/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	CAP0382114-10	6/1/2012	6/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	CUA0382119-10	6/1/2012	6/1/2013	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A	WCA0382116-10	6/1/2012	6/1/2013	WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
Re: Civic Campus Enhancement, Grove Street, Essex, CT. The Town of Essex & The State of CT are hereby named as an additional insured with respects to General Liability as required by written contract.

**CERTIFICATE HOLDER****CANCELLATION**Town of Essex  
29 West Avenue  
Essex, CT 06426

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Paul Wolcott/NANCY

ACORD 25 (2010/05)

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